IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 191 (M/B) of 2002

1. Sri Vividh Prakash alias Buddhoo **(Since deceased)**
1/1. Smt. Mathura Devi W/o Late Sri Vividh Prakash alias Buddhoo (**Since deceased)**
1/2. Sri Vijay Lal S/o Late Sri Vividh Prakash @ Buddhoo
1/3. Sri Deepak Lal S/o Late Sri Vividh Prakash @ Buddhoo
1/4. Sri Sanjay Lal S/o Late Sri Vividh Prakash @ Buddhoo
1/5. Sri Manoj Lal S/o Late Sri Vividh Prakash @ Buddhoo

All R/o Devi Sadan, Bhawani Ganj, Ramnagar, Distt. Nainital.

..... **Petitioner.**

Vs.

1. State of Uttaranchal through Secretary, Nagar Vikas, Dehradun

2. District Magistrate, Nainital

.....Respondents.

Sri R.S. Bisht, ld. counsel for the petitioner.
Learned standing counsel for the Respondents.

Dated:- August 25, 2006

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of mandamus commanding the respondents to grant freehold of the land in possession of the petitioner forthwith.

2. Brief facts giving rise to the present petition are that Govt. of U.P. issued various government orders from the year 23.5.1992, 2.12.1992, 3.10.1994, 17.2.1996, 18.2.1997 and 26.9.1997 providing grant of free-hold to the various persons either holding the possession of the Nazul land as lessee or otherwise, however the aforesaid notifications were superseded and amended by government notification dated 1.12.1998. In the aforesaid notification, it was also provided that either the lessee was his nominee or his transferee found in

possession of Nazul land would be entitled to apply for grant of freehold. After the Re-organization Act, 2000, State of Uttaranchal came into force and the policy in respect of grant of freehold was not changed by the present Govt. of Uttaranchal also and the respondents are also adopting and applying the same policy which was applied and notified by way of government orders referred to above by Govt. of U.P. and to avail the benefit of the policy, the petitioner also applied for grant of freehold in respect to the land in his occupant for more than 50 years. The Addl. District Magistrate on the application of the petitioner sought an enquiry from the S.D.M. Ramnagar. The application was made by the petitioner on 29.6.2000. The S.D.M. Nainital in reply the order of Addl. District Magistrate, Nainital submitted a report on 27.7.2000 wherein he found that the land in question was in possession of the petitioner and also reported that the petitioner was in possession of the said land for more than 40 years. Thereafter, no further decision was taken on the application of the petitioner. The petitioner also requested the authorities concerned that even if he does not fall in the category of freehold, he may be permitted to get his possession regularized as he is possession of the said land for more than 50 years and a premium equivalent to aggregate lease rent for 50 years alongwith some premium may be realized form the petitioner. The petitioner has claims that he is a scheduled caste 'Dalit', however no action has been taken on the application of the petitioner and petitioner is bound to move piller to post but of no avail. Feeling aggrieved, the petitioner has come up in the wit petition.

3. We have heard learned counsel for the parties and perused the entire evidence on record.

4. Keeping in view of the facts and circumstances of the case, it is provided that the petitioner shall make a fresh application to the District Magistrate, Nainital for grant of the land in question as freehold and the District Magistrate, Nainital shall take a decision on the application of the petitioner in accordance with government orders on the subject and if it is found that the petitioner is entitled to get freehold right in the land in question, then the appropriate order shall be passed by him in accordance with law.

5. With the aforesaid order, the petition is disposed of finally.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang